

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE WACHOVIA CORPORATION ERISA LITIGATION	MASTER FILE: 08 Civ. 5320 (NRB)
THIS DOCUMENT RELATES TO: All Actions	

**PLAINTIFF TODD A. WRIGHT'S NOTICE OF MOTION TO APPOINT INTERIM
LEAD PLAINTIFFS, APPOINT INTERIM LEAD COUNSEL AND FOR ENTRY OF
PRETRIAL ORDER NO. 1**

Plaintiff Todd A. Wright respectfully moves this Court to enter [Proposed] Pretrial Order No. 1 which: (1) appoints Plaintiffs Todd A. Wright, Denise A. Tuttle and Jerry Kelley as Interim Lead Plaintiffs; and (2) appoints Keller Rohrback L.L.P. (“Keller Rohrback”) as Interim Lead Counsel, with Keller Rohrback’s New York office serving as liaison counsel. In support of this Motion, Plaintiff Wright avers as follows:

Plaintiff Wright filed a Complaint for violations of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, against Wachovia Corp. (“Wachovia” or the “Company”) and certain other fiduciaries of the Wachovia Savings Plan (the “Plan”), a retirement plan established and sponsored by Wachovia as a benefit for its employees. The complaint, filed on behalf of Plaintiff Wright and a class of all persons who were participants in or beneficiaries of the Plan, seeks to recover losses to the Plan caused by Defendants’ breaches of their ERISA-mandated fiduciary duties.

Specifically, Plaintiff Wright’s claims arise from the failure of Defendants, who are fiduciaries of the Plan, to act solely in the interest of the Plan’s participants and beneficiaries and to exercise the required care, skill, prudence, loyalty, and diligence in administering the Plan and investment of Plan assets. Plaintiff Wright alleges that Defendants violated their fiduciary obligations to the Plan under ERISA §§ 404 and 405, 29 U.S.C. §§ 1104 and 1105, by, among other things, failing to:

- (a) prudently manage the assets of the Plan by continuing to acquire, contribute, and maintain shares of Wachovia stock in the Plan when such actions were contrary to those of a prudent fiduciary;
- (b) properly monitor the Plan and its fiduciaries;
- (c) disclose necessary information to co-fiduciaries; and

- (d) provide participants with complete and accurate information regarding Wachovia stock, thereby preventing participants from making informed decisions regarding the investment of Plan assets in Company stock.

Plaintiff Wright seeks relief pursuant to ERISA §§ 409 and 502(a)(2), (3), 29 U.S.C. §§ 1109 and 1132(a)(2), (3). Defendants are responsible for restoring losses sustained by the Plan as a result of Defendants' breaches of their fiduciary duties.

By this Motion, Plaintiff Wright respectfully moves this Court for an Order formally setting forth procedures for the efficient management of the Consolidated Action¹, including the appointment of Interim Lead Plaintiffs and Interim Lead Counsel. In accordance with the *Manual for Complex Litigation* (4th ed. 2008) (the "*Manual*"), it is appropriate for the Court to enter an order appointing a leadership structure for plaintiffs' counsel.

Additionally, in accordance with the recommendations of the *Manual*, Plaintiff Wright submits for the Court's consideration a [Proposed] Pretrial Order which: (1) provides for the appointment of Interim Lead Plaintiffs; (2) provides for the appointment of Interim Lead Counsel; (3) describes the duties and obligations attributable to counsel thereunder; and (4) directs counsel to confer regarding a preliminary schedule for these proceedings. Pursuant to Fed. R. Civ. P. 23(g)(2)(A), Keller Rohrback seeks appointment as Interim Lead Counsel to act on behalf of the putative class before the Court determines whether to certify the action as a class action. As Interim Lead Counsel, Keller Rohrback will coordinate with Interim Lead Plaintiffs

¹ On August 13, 2008, the Court consolidated the following related ERISA cases: *Hansen v. Wachovia Corp., et al.*, No. 08-cv-5320 (NRB), filed June 10, 2008; *Wright v. Wachovia Corp., et al.*, No. 08-cv-5324 (NRB), filed June 11, 2008; *Tuttle v. Wachovia Corp., et al.*, No. 08-cv-5578 (NRB), filed June 20, 2008; *Cominsky v. Wachovia Corp., et al.*, No. 08-cv-5990 (NRB), filed July 1, 2008; *Willard v. Wachovia Corp., et al.*, No. 08-cv-6196 (NRB), filed July 08, 2008; and *Kelley v. Wachovia Corp., et al.*, No. 08-cv-6623 (NRB), filed July 25, 2008. These actions are collectively referred to hereinafter as the "Consolidated Action".

in the conduct of this litigation, and will ensure that the interests of all plaintiffs are represented in the prosecution of this action on behalf of the Class.

This Motion is based on the accompanying Memorandum of Law and all papers and pleadings on file in the above-captioned case.

DATED this 26th day of August, 2008.

Respectfully submitted,

KELLER ROHRBACK L.L.P.

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***Additional Counsel for Plaintiff Todd A.
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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2008, I electronically filed PLAINTIFF TODD A. WRIGHT'S NOTICE OF MOTION TO APPOINT INTERIM LEAD PLAINTIFFS, APPOINT INTERIM LEAD COUNSEL AND FOR ENTRY OF PRETRIAL ORDER NO. 1; MEMORANDUM IN SUPPORT OF PLAINTIFF TODD A. WRIGHT'S MOTION TO APPOINT INTERIM LEAD PLAINTIFFS, INTERIM LEAD COUNSEL AND FOR ENTRY OF PRETRIAL ORDER NO. 1; and DECLARATION OF DEREK W. LOESER IN SUPPORT OF PLAINTIFF TODD A. WRIGHT'S MOTION TO APPOINT INTERIM LEAD PLAINTIFFS AND INTERIM LEAD COUNSEL AND FOR ENTRY OF PRETRIAL ORDER NO. 1 with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to all known counsel of record.

I also served the documents indicated on the attached Service List and by U.S. Mail, postage prepaid.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 26, 2008, at Seattle, Washington.


Cathy A. Hopkins, Legal Assistant

SERVICE LIST

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